

Town Board Minutes

March 1, 2004

Meeting No. 9

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at 21 Central Avenue, Lancaster, New York on the 1st day of March at 8:00 P.M. and there were

PRESENT: DANIEL AMATURA, COUNCIL MEMBER
MARK MONTOUR, COUNCIL MEMBER
RONALD RUFFINO, COUNCIL MEMBER
DONNA STEMPIAK, COUNCIL MEMBER
ROBERT GIZA, SUPERVISOR

ABSENT: NONE

ALSO PRESENT: JOHANNA COLEMAN, TOWN CLERK
ROBERT LABENSKI, TOWN ENGINEER
RICHARD SHERWOOD, TOWN ATTORNEY
JEFFREY SIMME, BUILDING INSPECTOR
GARY STOLDT, CHIEF OF POLICE
CHRISTINE FUSCO, ASSESSOR
TERRENCE McCracken, GENERAL CREW CHIEF
RICHARD REESE JR., HIGHWAY SUPERINTENDENT

EXECUTIVE SESSION:

UPON MOTION DULY MADE BY COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER MONTOUR AND CARRIED, the Town Board withdrew into Executive Session for the announced purpose of discussing a possible matter of litigation and contract.

At 9:51 P.M., the Town Board reconvened with all members present. The Town Clerk reported that the Town Board took one (1) official action during Executive Session and that minutes of the session containing a summary record of that action are contained on page 185 of these minutes.

PERSONS ADDRESSING TOWN BOARD:

Sherry, Tim, 62 Rehm Road, spoke to the Town Board on the following matter:

- Comments regarding assessment procedures for condominiums.

Symer, Donald, 610 Columbia Avenue, spoke to the Town Board on the following matters:

- Spoke in favor of the Town of Lancaster's development of an employee handbook.
- Is pleased that the Town of Lancaster will declare the week of March 21-27, 2004 Depew-Lancaster Sertoma Club Freedom Week.
- He is a proponent of citizen participation and would like the Planning Board to accept oral comments from residents by opening the meeting to public comments.

PRESENTATION OF PREFILED RESOLUTIONS BY COUNCIL MEMBERS:

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPIAK, TO WIT:

RESOLVED, that the minutes of the Joint Meeting of the Town Board and
the Planning Board held February 23, 2004 and the Regular Meeting of the Town Board held
February 23, 2004 be and are hereby approved.

The question of the adoption of the foregoing resolution was duly put to a vote
on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004

File: RMIN (P2)

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, the Town Line Volunteer Fire Department, Inc., has requested
the addition of two (2) members to the membership roster of said fire association.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby
confirms the addition to the membership of the Town Line Volunteer Fire Department the
following two (2) individuals:

ADDITIONS:

Steve Thiemke	Brad Windnagle
36 Button Wood Court	442 Town Line Road
East Amherst, New York	Lancaster, New York

The question of the adoption of the foregoing resolution was duly put to a
vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER STEMPNIAK, TO WIT:

WHEREAS, the Twin District Volunteer Fire Company, Inc., by letter dated February 24, 2004, has requested the addition of two (2) members to the membership roster of said fire association.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby confirms the addition to the membership of the Twin District Volunteer Fire Company the following two (2) individuals:

ADDITIONS:

Keith R. Reed	Scott D. Evens
5277 William Street	18 Old Schoolhouse Road
Lancaster, New York	Lancaster, New York

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, Sertoma International, a civic service organization, the motto of which is “SERVICE TO MANKIND”, has adopted a Freedom Program dedicated to the re-emphasis of the values and responsibilities of people in a free society, and

WHEREAS, independence and freedom are elemental parts of the American character which has flourished in this rich and bountiful land and have made the United States a great and powerful nation, and

WHEREAS, it is the duty of every American and every American Association to study and practice the principles of freedom and liberty and to remain ever vigilant, and

WHEREAS, for many years, the Sertoma Clubs have diligently exercised that high duty of American Citizenship with patriotic dedication in their Freedom Program, and

WHEREAS, the Depew-Lancaster Sertoma Club is planning to carry out special patriotic and civic duties during 2004 Freedom Week.

NOW, THERE FORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby proclaims the week of March 21, 2004 through March 27, 2004 DEPEW-LANCASTER SERTOMA CLUB FREEDOM WEEK and urges every citizen to join the Depew-Lancaster Sertoma Club during that week in special observation of the blessings of Freedom and Liberty in our Country in order to inspire constant daily adherence to such observation throughout the year.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCIL
MEMBER STEMPNIAK, TO WIT:

WHEREAS, the Assessor of the Town of Lancaster, by letter dated February 26, 2004, has recommended the appointment of Valerie Banach, 25 Southwest Pkwy, Lancaster, New York 14086 to the position of Clerk, Part Time, Temporary, in the Assessor's Office of the Town of Lancaster.

**NOW, THEREFORE, BE IT
RESOLVED**, as follows:

SECTION 1: That Valerie Banach, 25 Southwest Pkwy, Lancaster, New York 14086, is hereby appointed to the position of Clerk, Part Time, Temporary, in the Office of the Assessor.

SECTION 2: That she be compensated at an hourly rate of \$8.50, for a maximum of 19.75 hours per week.

SECTION 3: That this appointment is effective March 1, 2004.

SECTION 4: That this appointment, being a temporary, seasonal position, provides no health insurance, sick days, vacation or other fringe benefits not specifically mandated for part time employees.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTGOMERY, TO WIT:

WHEREAS, the Town of Lancaster by Town Board resolution on November 20, 1995 approved a subdivision map cover for Fairway Hills Subdivision located on the south side of William Street east of Bowen Road, and

WHEREAS, the map cover was thereafter duly filed in the Erie County Clerk's Office and became a map cover of record, and

WHEREAS, the property was transferred to its present owner Marrano Marc Equity who has discovered that the seller filed an abandonment of the map cover in Erie County Clerk's Office, and

WHEREAS, the owner desires to develop the parcel pursuant to the original map cover as approved by the Town and filed in the Erie County Clerk's Office, and

WHEREAS, this subdivision is adjacent to the Summerfield Farms Subdivision approved by the Town Board which was designed to interconnect to the Fairway Hills Subdivision, and

WHEREAS, the Town Board was unaware that the prior owner had abandoned the subdivision and deems it in the public interest to permit the present owner to develop the property pursuant to the original subdivision map cover as approved November 20, 1995;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby re-approves the map cover for Fairway Hills Subdivision, Phase I as it was originally approved and authorizes the present owner to refile a subdivision map cover in the Erie County Clerks Office, and

BE IT FURTHER

RESOLVED, that the Town Clerk of the Town of Lancaster be and is hereby directed to properly endorse the approval of the Town Board of the Town of Lancaster on the linen copy thereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004

File: rfairwayhillsmapprover304

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

WHEREAS, Donald C. Babcock, owner of **WALDEN COLLISION**, situate at 4274 Walden Avenue, in the Town of Lancaster, has submitted an application for a Special Use Permit for an automobile sales business in accordance with provisions of Chapter 50-Zoning, Section 24 (B) (1) of the Code of the Town of Lancaster;

WHEREAS, §50-46 of the Zoning Code of the Town of Lancaster requires that the Town Board conduct a public hearing before the issuance of a special use permit for a use as proposed;

NOW, THEREFORE, BE IT

RESOLVED, that pursuant to Chapter 50-Zoning, Section 24 (B) (1), entitled “Light Industrial District (LI)” of the Code of the Town of Lancaster, a Public Hearing on the proposed Special Use Permit for an automobile sales business on premises locally known as 4274 Walden Avenue in the Town of Lancaster, New York, will be held at the Town Hall, 21 Central Avenue, Lancaster, New York, on the 15th day of March 2004, 8:30 o’clock P.M., Local Time, and that Notice of the time and place of such Hearing be published in the Lancaster Bee, a newspaper of general circulation in said Town, and be posted on the Town Bulletin Board and that a copy of such Notice of Hearing be referred to the Erie County Department of Planning, pursuant to Section 239(m) of the General Municipal Law, which Notice shall be in the form attached hereto and made a part hereof.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004

**LEGAL NOTICE
PUBLIC HEARING
SPECIAL USE PERMIT - WALDEN COLLISION
4274 WALDEN AVENUE**

LEGAL NOTICE IS HEREBY GIVEN, that pursuant to the authority set forth in Chapter 50-Zoning, Section 24 (B) (1) “Light Industrial District (LI)” of the Code of the Town of Lancaster, and the Town Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of Lancaster adopted on the 1st day of March, 2004 the said Town Board will hold a Public Hearing on the 15th day of March, 2004, at 8:30 o’clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, to hear all interested persons upon the application of Donald C. Babcock, owner of Walden Collision, for a Special Use Permit for an automobile sales business on premises locally known as 4274 Walden Avenue, Town of Lancaster, County of Erie, State of New York.

Full opportunity to be heard will be given to any and all citizens and all parties in interest.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

**BY: JOHANNA M. COLEMAN
Town Clerk**

March 1, 2004

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER RUFFINO, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:

WHEREAS, the Town and the Village of Lancaster entered into an agreement on March 3, 2003 which would provide for contribution from the Town of Lancaster to certain aspects of the Central Avenue Streetscape revitalization project to wit: the Town committing to replace the bridge infrastructure over Plumb Bottom Creek on Central Avenue and the deck for the sidewalk at that bridge crossing as well as improvements to the Town Hall Plaza which is defined as the area fronting the Town Hall outside of the Central Avenue right-of-way, and

WHEREAS, during re-construction of the bridge infrastructure over Plumb Bottom Creek as part of the Central Avenue Streetscape project, the Town and Village agreed that additional improvements to the bridge were needed over and above those contemplated in the March 3, 2003 agreement, and

WHEREAS, the Town has reviewed the costs for the additional repair as certified by Pratt and Huth Associates, project engineer and construction inspector and Peter J. Smith and Company Inc., project manager to be \$197,316 for the cost of reconstruction by the contractor Destro Borthers.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby authorizes the Supervisor of the Town of Lancaster to pay jointly to the Village of Lancaster and the Destro Brothers the sum of \$197,316 for the additional improvements made to the Plumb Bottom Creek bridge on Central Avenue by the said Destro brothers.

The question of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
COUNCIL MEMBER GIZA	VOTED YES

March 1, 2004

File: rlancasterstreetscapeamendagreement304

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR GIZA, WHO MOVED ITS
ADOPTION, SECONDED BY COUNCIL
MEMBER STEMPNIAK, TO WIT:

RESOLVED, that the following Audited Claims be and are hereby ordered paid
from their respective accounts as per abstract to be filed in the Office of the Town Clerk by the
Director of Administration and Finance, to wit:

Claim No. 7435 to Claim No. 7541 Inclusive
Total amount hereby authorized to be paid: \$479,897.99

The question of the foregoing resolution was duly put to a vote on roll call
which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004
File: Rclaims

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER STEMPNIAK, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER MONTOUR, TO WIT:
RESOLVED that the following Building Permit applications be and are hereby
reaffirmed:

CODES:

(SW) = Sidewalks as required by Chapter 12_1B. of the Code of the Town Lancaster are
waived for this permit.

(CSW) = Conditional sidewalk waiver.

(V/L) = Village of Lancaster

NEW PERMITS:

11446	Marrano/Marc Equity	19 Ashwood Ct	Er. Dwlg._Sin.
11447	Marrano/Marc Equity	30 Ashwood Ct	Er. Dwlg._Sin.
11448	Marrano/Mark Equity	29 Ashwood Ct	Er. Dwlg._Sin.
11449	Marrano/Marc Equity	28 Ashwood Ct	Er. Dwlg._Sin.
11450	Kleinfelder, Keith	9 Fieldstone Ln	Er. Deck
11451	Epic Capital Corp.	2793 Wehrle Dr	Er. Comm. Add.
11452	All American Sign	5337 Genesee St	Er. Sign
11453	Beauty Pools Inc	22 Apple Blossom Blvd	Er. Pool_In Grnd
11454	Barden Homes	672 Townline Rd	Er. Dwlg._Sin.
11455	Central Fireplace	90 Country Pl	Er. Fireplace
11456	Marrano/Marc Equity	21 Avian Way	Er. Dwlg._Sin.
11457	TMS Construction	4952 William St	Er. Res. Add.

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (SW) for
sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance
requirement for sidewalks, and

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (CSW) for
conditional sidewalk waiver be and are hereby reaffirmed with a waiver of the Town
Ordinance required for sidewalks, however, the waiver is granted upon the expressed
condition that the Town of Lancaster, at any future date, reserves the right to order sidewalk
installation at the expense of the property owner.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPNIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004
File: Rbldg2

Supervisor Giza requested a suspension of the necessary rule for immediate consideration of the following resolution:

Council Member Ruffino moved to suspend the necessary rules for immediate consideration of the following resolution, seconded by Council Member Amatura and carried.

SUSPENSION GRANTED

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER MONTOUR, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER AMATURA, TO WIT:

WHEREAS, Amtek Management Services Corp. has submitted a proposal to develop an employee handbook for the Town of Lancaster as outlined in a professional services agreement, and

WHEREAS, the Town Board has given due review and consideration to the development of such a handbook to apprise all current Town employees and future hires of the policies in place for Town employees on all matters related to employment and deems it in the public interest to engage the services of Amtek Management Services Corp. for a fee not to exceed \$4,500 per its proposal.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby authorizes the Supervisor of the Town of Lancaster to enter into an agreement with Amtek Management Services Corp. to produce an employee handbook at a cost not to exceed \$4,500 for the services as outlined in its proposal.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER AMATURA	VOTED YES
COUNCIL MEMBER MONTOUR	VOTED YES
COUNCIL MEMBER RUFFINO	VOTED YES
COUNCIL MEMBER STEMPIAK	VOTED YES
SUPERVISOR GIZA	VOTED YES

March 1, 2004

COMMUNICATIONS & REPORTS:

102. NYS DOT to Town Attorney -
Notification of Lead Agency Designation to the Town of Lancaster for regarding proposed Orvilles Appliance Warehouse, 3979 Walden Avenue; comments noted.
DISPOSITION = Planning Committee
103. Village of Lancaster to Town Board -
Minutes of official meeting of February 9, 2004. DISPOSITION = Received & Filed
104. Twin District Fire Company to Town Clerk -
Request for change in roster. DISPOSITION = Resolution 3/1/04
105. General Crew Chief to Planning Board Chairman, Planning Board Members, Council Members Montour, Ruffino, & Stempniak -
Recommendation from the Town Forestry Department regarding Tim Horton's Restaurant, N.E. corner Harris Hill Rd. and Genesee St.; no concerns regarding Pleasant Heights Subdivision, Forton Drive and Pleasant View Drive.
DISPOSITION = Planning Committee
106. Town Line Volunteer Fire Department Inc. to Town Clerk -
Request for change in roster. DISPOSITION = Resolution 3/1/04
107. Town of Cheektowaga to Town Clerk -
Solicitation for Lead Agency Status regarding proposed Delta Sonic Car Wash Facility on west side of Transit Road. DISPOSITION = Received & Filed
108. Town Assessor to Town Board -
Request appointment of Valerie Banach as Part Time/Temporary Clerk.
DISPOSITION = Resolution 3/1/04
109. Erdman, Anthony and Associates to Supervisor -
Minutes of meeting held February 6, 2004 regarding Cemetery Road Bridges.
DISPOSITION = Received & Filed
110. NYS DEC to NYS Senator Dale M. Volker & Assemblyman Paul A. Tokasz -
Response to letter regarding wetlands boundaries in Windsor Ridge Subdivision.
DISPOSITION = Town Attorney
111. NYSEG to Town Board -
Notice of outreach program presentation regarding live-line demonstrations.
DISPOSITION = Received & Filed
112. NYS Office of Real Property Services to Supervisor -
Acknowledgment of receipt of resolution regarding Reassessment Project for 2005.
DISPOSITION = Received & Filed
113. Town Clerk to Town Board -
Application for Special Use Permit for Walden Collision, 4274 Walden Avenue.
DISPOSITION = Town Attorney

ADJOURNMENT:

ON MOTION OF COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER MONTOUR AND CARRIED, the meeting was adjourned at 9:54 P.M in memory of Natalie Lewandowski.

Signed _____
Johanna M. Coleman, Town Clerk.